

**IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

ANIKA GREENE

*

Plaintiffs,

*

v.

* Civil Action No.: 1:10-cv-00115-WDQ

SOUTHERN AUTO FINANCE COMPANY, *
et al.

*

Defendants

* * * * *

**DEFENDANT AMY KLINE'S MOTION TO DISMISS EACH COUNT OF THE
COMPLAINT, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT**

Defendant Amy Kline, by her attorneys, James E. Dickerman, Larry L. Puckett and Eccleston and Wolf, P.C., pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, moves to dismiss, with prejudice, each Count of the Complaint. Alternatively, pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant Amy Kline moves for summary judgment as to each Count of the Complaint. The grounds for this motion are as follows:

1. The Plaintiffs' Complaint fails to satisfy the "plausibility" standard set forth in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (U.S. 2007) and its progeny, including *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1950 (U.S. 2009), because it contains no "facts" that demonstrate a right to relief, as opposed to mere conclusions or speculation. As a result, each Count of the Complaint should be dismissed with prejudice.

2. Count I of the Complaint (Maryland Consumer Debt Collection Act) (MCDCA) fails to state a claim upon which relief can be granted because as to Ms. Kline, the Plaintiffs are unable to establish the knowledge components of the alleged violations.

3. Count II of the Complaint (Maryland Consumer Protection Act) (MCPA) fails to state a claim upon which relief can be granted as to Defendant Amy Kline because by statute, as an attorney, Defendant Amy Kline is exempt from the provisions of the Maryland Consumer Protection Act.

4. Count III of the Complaint (Fair Debt Collection Practices Act) (FDCPA) fails to state a claim upon which relief can be granted because the filing of the lawsuit against the Plaintiff does not fall within the provisions of the FDCPA and even if it did, the filing of the lawsuit against the Plaintiffs did not violate the FDCPA and Defendant Amy Kline is nevertheless entitled to the *bona fide* error defense found in Section 1692k(c) of the FDCPA.

5. Count IV of the Complaint (Negligence) fails to state a claim upon which relief can be granted because as a matter of law, Defendant Amy Kline owed no duty to the Plaintiffs.

6. Count V of the Complaint (Intentional Misrepresentation) fails to state a claim upon which relief can be granted because the Plaintiffs have not pled any facts demonstrating that they relied upon any alleged misrepresentations attributed to Defendant Amy Kline.

7. The Plaintiffs are not entitled to punitive damages as to Defendant Amy Kline because punitive damages are not recoverable for alleged violations of the FDCPA, MCDCA and MCPA, and the Plaintiffs have failed to alleged any facts demonstrating that Ms. Kline acted with actual malice, which is a prerequisite for the recovery of punitive damages under the non-statutory claims.

8. The accompanying Memorandum of Law is incorporated herein by reference as if fully stated herein.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 20, 2010, a copy of the foregoing was served by first-class mail, postage prepaid, to the following:

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/s/

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